

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
EUGENE DIVISION**

**LARAE ERNST, *et al.*,**

Plaintiffs,

No. 6:23-cv-00580-MK

v.

**OPINION & ORDER**

**COMMONSPIRIT HEALTH,**

Defendant.

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AIKEN, District Judge.

This case comes before the Court on a Findings and Recommendation filed by Magistrate Judge Mustafa Kasubhai. CF No. 30. Judge Kasubhai recommends that this case be remanded to the Marion County Circuit Court, State of Oregon, and that Plaintiff's Motion for Remand be GRANTED. Judge Kasubhai also recommends that the Court direct Plaintiff to file a motion for costs and attorneys' fees. *Id.* at 11.

Under the Federal Magistrates Act, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge's findings and recommendations, "the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."). Although no review is required in the absence of objections, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Id.* at 154. The Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the court should review the recommendation for "clear error on the face of the record."

In this case, Defendant has filed objections, ECF No. 32, and Plaintiff has responded, ECF No. 33. The Parties then moved for a stay to pursue settlement negotiations. The parties informed the Court that the case did not settle. Therefore, the Court reviewed *de novo* the following: Plaintiff's Motion for Remand, ECF No. 14; Defendant's Response, ECF No. 17; Plaintiff's Reply, ECF No. 21; Defendant's Motion to Strike, ECF No. 24; Plaintiff's Response, ECF No. 26; Defendant's Reply, ECF No. 27; the Court's Order allowing sur-reply to address new arguments raised in Plaintiff's Reply to the Motion to Remand, ECF No. 28; Defendant's Sur-Reply, ECF No. 29; all accompanying declarations and exhibits; Defendant's objections to the F&R and Plaintiff's responses, ECF Nos. 32, 33. The Court reviewed the F&R finds no error.

The F&R, ECF No. 30, is therefore ADOPTED and this case is REMANDED to the Marion County Circuit Court, State of Oregon. Plaintiff is ORDERED to file a motion for fees.

It is so ORDERED and DATED this 10th day of July 2024.

/s/Ann Aiken

ANN AIKEN

United States District Judge